

REMARKS

Claims 51 through 72 are in the application, with Claims 51 through 54 having been amended, and with Claims 55-72 having been added. Claims 51-54 are the independent claims herein. No new matter has been added. Reconsideration and further examination are respectfully requested.

Claim Rejections under 35 USC § 103(a)

Claims 51-54 are rejected as being unpatentable over Garberoglio, U.S. Patent No. 6,400,987 B1 (“Garberoglio”) in view of Levine et al. U.S. Patent No. 6,327,501 B1 (“Levine”).

At the outset, applicants generally observe that the two references relied upon by the Examiner are directed to completely different purposes from the invention as now claimed in this application. A main point of the disclosure of the Garberoglio reference is to provide a system for summoning aid for a patient by telemetry in response to an implanted medical device detecting that the patient is experiencing an adverse condition (see column 7, lines 23-55). A main point of the Levine reference is to check an implanted medical device to see whether any safety alerts or the like have been issued with respect to the implanted medical device (see column 2, lines 52-63). By contrast, in the invention as now claimed, a method or system is provided to prevent a medical treatment intended for one patient from being mistakenly provided to a different patient. Neither of the references relied upon by the Examiner is in any way concerned with addressing the latter problem, nor does either reference even refer to this problem.

Applicants will now turn to specific claim language that distinguishes the claims as now presented from the prior art.

Claim 1, as now amended, is directed to a “method for delivering a treatment”, which includes the steps of “a patient wearing a first device”, “bringing a second device in contact with the patient, said second device to selectively apply a proposed treatment to the patient” and “said first device transmitting to said second device a patient identifier via an electrical current signal transmitted via the patient’s body”. As now amended, claim 1 also specifies that “said patient identifier includ[es] information for identifying the patient”. Moreover, the method of claim 1

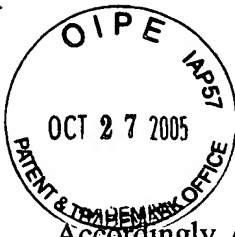
includes “said second device using said transmitted patient identifier to confirm that said proposed treatment is intended for the patient” and “said second device applying said proposed treatment to the patient after confirming that said proposed treatment is intended for the patient”.

Support for the claim amendment that the patient identifier includes information for identifying the patient is supported at paragraph 0072 of the present patent application as published.

In formulating the rejection of claim 51, the Examiner apparently chose to interpret the claim term “patient identifier” as identifying “a patient condition”, but as now presented, claim 51 clearly requires the patient identifier to include information that identifies the patient, not just a patient’s condition. Moreover, neither of the references discloses using a transmitted patient identifier to confirm that a proposed treatment is intended for the patient. Garberoglio discloses triggering application of electrical stimulation or drugs to a patient, or summoning aid for the patient, but is not concerned with confirming that a proposed treatment is intended for a patient. Levine discloses checking information which identifies an implanted device or its components against safety alert information, but does not disclose either transmitting patient identifying information or confirming that an intended treatment is for the patient. Thus neither of the references teaches or suggests a basic feature of claim 51. It is therefore respectfully submitted that the rejection of claim 51 should be reconsidered and withdrawn.

The remarks given above in regard to claim 51 are also applicable to the other independent claims, which are claims 52-54.

The new claims 55-72 are all dependent on one or another of the independent claims 51-54 and are submitted as patentable at least on the same basis as claim 51. Furthermore, each of the new claims requires that one or more of the first, second and third devices are not implanted in the patient. Support for these new claims is found, for example, at paragraphs 0041 and 0043 of the present application as published. It is noted that at least some of the devices recited in the references and relied upon by the Examiner are implanted.



CONCLUSION

Accordingly, Applicants respectfully request allowance of the pending claims. If any issues remain, or if the Examiner has any further suggestions for expediting allowance of the present application, the Examiner is kindly invited to contact the undersigned via telephone at (203) 972-3460.

Respectfully submitted,

October 25, 2005
Date

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